

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed December 28, 2005. At the time of the Office Action, Claims 1-3, 5-11, 13-19, and 21-27 were pending in the Application. Applicant amends Claims 1, 9, 17, and 25 and cancels Claims 5, 13, and 21, without prejudice or disclaimer. Applicant's amendments and cancellations have been done to advance prosecution in this case and not to overcome prior art. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Specification

The Examiner objects to the disclosure and requests that the Applicant update the Related Applications' paragraph. *Office Action*, p. 2. In the Response to the Office Action mailed August 5, 2005, Applicant updated the Related Applications' paragraph. Applicant again provides an updated Related Applications' paragraph and respectfully requests the Examiner to withdraw this objection.

Section 103 Rejections

The Examiner rejects Claims 1, 3, 6-9, 11, 14-17, 19, and 22-26 under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,519,223 issued to Wager et al. (hereinafter "*Wager*") in view of *Strawczynski* in further view of U.S. Patent No. 6,088,342 issued to Cheng et al. (hereinafter "*Cheng*") and U.S. Patent No. 6,532,211 issued to Rathonyi et al. (hereinafter "*Rathonyi*"). The Examiner rejects Claims 2, 10, 18, and 27 under 35 U.S.C. §103(a), as being unpatentable over *Wager* in view of *Strawczynski* in further view of *Cheng* and *Rathonyi* as applied to Claims 1, 9, and 17 above, and further in view of U.S. Patent No. 6,330,435 issued to Lazraq et al. (hereinafter "*Lazraq*"). "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." M.P.E.P. § 706.02(j) (citing *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985)).

Applicant respectfully disagrees with Examiner's rejections under 35 U.S.C. § 103 as discussed in the Response to the Office Action mailed August 5, 2005. The Examiner indicates that Claims 5, 13, and 21 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. *Office Action*, p. 6. To advance prosecution of the case, Applicant amends Claim 1 to include the limitations of Claim 5, amends Claim 9 to include the limitations of Claim 13, amends Claim 17 to include the limitations of Claim 21, and amends Claim 25 to include the limitations of Claim 5. Thus, Applicants respectfully request reconsideration and allowance of independent Claims 1, 9, 17, and 25 along with their dependents.

Regarding Claim 26, the Examiner relies on *Wager*, *Strawczynski*, *Cheng*, and *Rathonyi*, four references, to support the rejection. It is improper for an Examiner to use hindsight having read the Applicant's disclosure to arrive at an obviousness rejection. *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Furthermore, it is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Additionally, the references do not disclose, teach, or suggest, either expressly or inherently, each claim limitation. For example, the cited references do not disclose, teach, or suggest logic "operable to drop a set of remaining frames for a packet identified by a receiving device as having a frame unsuccessfully received after an allowed number of retransmissions." Accordingly, Applicant respectfully requests reconsideration and allowance of Claim 26.

Regarding Claim 27, the Examiner relies on *Wager*, *Strawczynski*, *Cheng*, *Rathonyi*, and *Lazraq*, five references, to support the rejection. As discussed above, the Examiner cannot use hindsight having read the Applicant's disclosure to piece together the teachings of the prior art. Additionally, the references do not disclose, teach, or suggest, either expressly or inherently, each limitation recited in independent Claim 27. For example, the cited references do not disclose, teach, or suggest a signal including "an indication of radio frames requiring retransmission; an indication of dropped radio frames; and an identifier of a packet to which the dropped radio frames belong." Accordingly, Applicant respectfully requests reconsideration and allowance of Claim 27.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's indication that the subject matter of Claims 5, 13, and 21 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. *Office Action*, p. 6. Applicant cancels Claims 5, 13, and 21 and incorporates limitations of Claim 5 into Claims 1 and 25, limitations of Claim 13 into Claim 9, and limitations of Claim 21 into Claim 17. Accordingly, Applicant respectfully requests reconsideration and allowance of Claims 1, 9, 17, and 25 together with their dependents.

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CONCLUSION

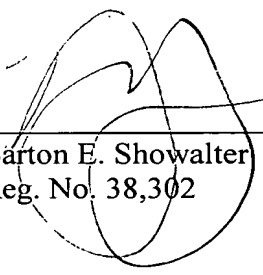
Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not correct, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney, Barton E. Showalter, at (214) 953-6509.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant

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Barton E. Showalter
Reg. No. 38,302

Customer No. **05073**